

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CF3151
	EEOC NO.: 21BA81931
ANDRES SANTIAGO,)	ALS NO.: 09-0433
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee Freeman and Yonnie Stroger, presiding, upon the Petitioner's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CF3151, Andres Santiago ("Petitioner"), and the Board of Education of the City of Chicago ("Employer"); and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request, and the Petitioner's Reply; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On May 7, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged the Employer harassed him in retaliation for having filed two previous charges of discrimination with the Respondent (Count A), and because of his sex, male (Count B), in violation of Sections 6-101(A) and 2-102(A) of the Illinois Human Rights Act ("Act").

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

2. On February 27, 2009, the Respondent dismissed the Petitioner's charge for lack of substantial evidence. On March 23, 2009, the Petitioner filed a timely request for review and the Respondent filed its response on April 17, 2009. On April 20, 2009, the Commission entered an Order vacating the dismissal of the Petitioner's charge and remanding the Petitioner's charge to the Respondent for further investigation. On July 13, 2009, the Respondent again dismissed the Petitioner's charge for lack of substantial evidence. On August 7, 2009, the Petitioner filed this timely Request.
3. The Petitioner was hired by the Employer as a Probationary Assigned Teacher ("PAT"). During the 2007-2008 school year, he was assigned to the Lloyd Elementary School as a Writing Language Art Teacher and as the Disciplinarian.
4. During the time of the alleged violations, Dr. Miryam Assaf-Keller ("Assaf-Keller"), sex, female, was the Principal of Lloyd Elementary.
5. The Employer was aware that the Petitioner had previously filed charges of discrimination against it in March 2008.
6. The Petitioner alleged in his current charge that he was harassed beginning on May 5, 2008, and continuing through May 6, 2008, in retaliation for having filed the March 2008 charges of discrimination and because of his sex.
7. The Petitioner alleged the same set of facts in support of each count. The allegations concerned work-related conflicts the Petitioner had experienced with Assaf- Keller and another female co-worker. The Petitioner alleges for example, he was asked to lower his voice during tutoring sessions, he was accused of engaging in unprofessional behavior, and he was told that he had failed to properly utilize the school's "e-mail" system.
8. The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed all counts of the Petitioner's charge for lack of substantial evidence.
9. Actionable harassment occurs when the workplace is permeated with ..."discriminatory intimidation, ridicule, and insult that is sufficiently severe and pervasive to alter the conditions of the victim's employment and create an abusive working environment." Harris v. Forklift Systems, Inc., 510 U.S. 20, 114 S. Ct. 367, 371, 126 L.Ed.2d 295 (1993). "[I]nfrequent or isolated comments of a harassing nature will not constitute a violation of the Illinois Human Rights Act." Hill and Peabody Coal Co., ___ Ill. HRC Rep. ___ (1991SF0123, June 26, 1996).
10. The allegations of Counts A and B do not rise to the level of actionable harassment. Given the isolated and mild nature of the incidents alleged, and the short duration of the alleged harassment, there is no substantial evidence of

conduct sufficiently severe or pervasive to have altered the Petitioner's work environment over a two-day period of time.

11. Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Board of Education of the City of Chicago, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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Entered this 13th day of January 2010.

Commissioner David Chang

Commissioner Marylee Freeman

Commissioner Yonnie Stroger